

BILL ANALYSIS

Senate Research Center

H.B. 1148
By: Cook (Armbrister)
Business & Commerce
6/27/2001
Enrolled

DIGEST AND PURPOSE

As the demand for wireless services and seamless coverage grows, wireless providers are constructing new towers at increasing rates. In urban areas, numerous small cellular towers can be positioned on top of a building or other structures. However, in rural areas towers must be taller and spaced farther apart to ensure adequate coverage. In some cases, the towers in rural areas may be taller than 400 feet. However, residents who live in unincorporated portions of a county may have little or no notice when such a tower is constructed. H.B. 1148 requires a person who wishes to construct a wireless communication facility to inform landowners of the impending construction. The bill also sets forth filing requirements for the construction of a facility and provisions for the transfer of ownership and removal of the facility.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Authorizes this Act to be cited as the LeClair-Jennings Act.

SECTION 2. Amends Chapter 35, Business & Commerce Code, by adding Subchapter J, as follows:

SUBCHAPTER J. WIRELESS COMMUNICATION FACILITY

Sec. 35.111. DEFINITION. Defines "wireless communication facility."

Sec. 35.112. FILING REQUIREMENTS REGARDING CONSTRUCTION. (a) Requires a person wishing to construct a wireless communication facility that is taller than 100 feet to, before the 30th day before the date construction begins file certain information with the county clerk or the county official designated by the commissioners court of the county in which the person wishes to construct a wireless communication facility.

(b) Requires a person wishing to construct a wireless communication facility to assign each proposed wireless communication facility a unique identification and to provide the county clerk or official with that unique identification.

Sec. 35.113. NOTICE OF CONSTRUCTION. (a) Requires a person proposing to construct a wireless communication facility that is taller than 100 feet to, before the 30th day before the date the construction begins, mail a letter to certain entities.

(b) Sets forth statements required in the letter.

Sec. 35.114. TRANSFER OF OWNERSHIP. Requires the lessee of the real property used for the wireless communication facility, if a transfer of ownership of a wireless communication facility occurs that results in a change in the information required under Section 35.113(b)(2), (3) or (4), to give written notice to the county clerk or official of the county of construction and the lessor of the real property.

Sec. 35.115. REMOVAL. Requires a contract entered into by a property owner that

conveys to a person a property interest for the purpose of allowing the person to construct a wireless communication facility to contain a provision relating to the removal of the facility and any appurtenances to the facility that prescribes the circumstances under which removal shall be accomplished.

Sec. 35.116. EXCEPTIONS. Sets forth structures and facilities to which this subchapter does not apply.

Sec. 35.117. EFFECT ON CERTAIN ORDINANCES. Provides that this subchapter does not preempt a local ordinance regulating a wireless communication facility.

Sec. 35.118. PROHIBITION. Prohibits to the extent not already governed by and not inconsistent with the federal Telecommunications Act of 1996 (47 U.S.C. Section 251 et seq.), as amended, a wireless communication facility that is more than 15 feet in height above ground level from being located within three mile of the castor railroad crossing, located on the eastern side of a peak that is an oblong promontory with rim rock edges on the north and west sides that is 1,712 feet above sea level and that is in a county with a population of less than 5,500, whose county seat has a population of less than 2,500.

SECTION 3. Amends Chapter 21B, Transportation Code, by adding Section 21.069, as follows:

Sec. 21.069. MARKING OF WIRELESS COMMUNICATION FACILITY. (a) Defines "cultivated field" and "wireless communication facility."

(b) Provides that the absence of plants, seedlings, or a crop on a temporary basis due to crop rotation or other farm management techniques does not remove an open area from the definition of "cultivated field."

(c) Provides that this section applies only to an antenna structure that is used to provide commercial wireless communications services and that is located in a cultivated field or within 100 feet of a cultivated field..

(d) Requires a person who proposes to construct a wireless communication facility that is at least 100 feet but not more than 200 feet in height above ground level to mark the highest guy wires on the facility, if any. Requires the markings required under this section to be of a kind generally used for marking antennae structures.

SECTION 4. (a) Provides that the changes in law made by this Act apply only to a wireless communication facility constructed on or after the effective date of this Act.

(b) Effective date: upon passage or September 1, 2001.